



Substitute Senate Bill No. 707

Public Act No. 07-202

***AN ACT CONCERNING THE PAY SCALE OF THE STATE POLICE,
THE PREQUALIFICATION PROGRAM ADMINISTERED BY THE
DEPARTMENT OF ADMINISTRATIVE SERVICES AND CERTAIN
REVISIONS TO THE FREEDOM OF INFORMATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective from passage*) The Commissioner of Administrative Services, within available appropriations, shall study the pay scale for sworn personnel of the Division of State Police to identify any inequities among the classes of such personnel. Not later than February 1, 2008, the commissioner shall report to the joint standing committee of the General Assembly having cognizance of matters relating to public safety on the commissioner's findings.

Sec. 2. Subsection (a) of section 4a-63 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Administrative Services may disqualify any person, firm or corporation, for up to [two] five years, from bidding on contracts with the Department of Administrative Services, pursuant to section 4a-57, for supplies, materials, equipment and contractual services required by any state agency, for one or more causes set forth under subsection (c) of this section. The commissioner

Substitute Senate Bill No. 707

may initiate a disqualification proceeding after consulting with the purchasing agency, if any, and the Attorney General and shall provide notice and an opportunity to be heard to the person, firm or corporation which is the subject of the proceeding. The commissioner shall issue a written decision within ninety days of the last date of such hearing and state in the decision the reasons for the action taken and, if the person, firm or corporation is being disqualified, the period of such disqualification. The commissioner shall send the decision to such person, firm or corporation by certified mail, return receipt requested. The written decision shall be a final decision for the purposes of sections 4-180 and 4-183.

Sec. 3. Section 4a-100 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section: (1) "Prequalification" means prequalification issued by the Commissioner of Administrative Services to bid on a contract or perform work pursuant to a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work [for work] by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation; (2) "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars; (3) "principals and key personnel" includes officers, directors, shareholders, members, partners and managerial employees; (4) "aggregate work capacity rating" means the maximum amount of work an applicant is capable of undertaking for any and all projects; [and] (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking; and (6) "contract" means an agreement for work for the state or a municipality

Substitute Senate Bill No. 707

that is estimated to cost more than five hundred thousand dollars and is funded, in whole or in part, by state funds.

(b) (1) Any person may apply for prequalification to the Department of Administrative Services. Such application shall be made on such form as the Commissioner of Administrative Services prescribes and shall be accompanied by a nonrefundable application fee as set forth in subdivision (2) of this subsection. The application shall be signed under penalty of false statement.

(2) The application fee shall be as follows:

Aggregate Work Capacity Rating	Fee
\$5,000,000.00 or less	\$600.00
\$5,000,000.01 - \$8,000,000.00	\$750.00
\$8,000,000.01 - \$10,000,000.00	\$850.00
\$10,000,000.01 - \$15,000,000.00	\$1,000.00
\$15,000,000.01 - \$20,000,000.00	\$1,500.00
\$20,000,000.01 - \$40,000,000.00	\$2,000.00
\$40,000,000.01 or more	\$2,500.00

(c) The application form shall, at a minimum, require the applicant to supply information concerning:

(1) The applicant's form of organization;

(2) The applicant's principals and key personnel and any names under which the applicant, principals or key personnel conducted business during the past five years;

(3) The applicant's experience on public and private construction projects over the past five years, or on the applicant's ten most recently-completed projects and the names of any subcontractors used on the projects;

Substitute Senate Bill No. 707

(4) Any legal or administrative proceedings pending or concluded adversely against the applicant or any of the applicant's principals or key personnel within the past five years which relate to the procurement or performance of any public or private construction contract and whether the applicant is aware of any investigation pending against the applicant or any principal or key personnel;

(5) The nature of any financial, personal or familial relationship between the applicant and any public or private construction project owner listed on the application as constituting construction experience;

(6) A statement of whether (A) the applicant has been disqualified pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B) the applicant is on the list distributed by the Labor Commissioner pursuant to section 31-57a, (C) the applicant is disqualified or prohibited from being awarded a contract pursuant to section 31-57b, (D) the applicant has been disqualified by another state, (E) the applicant has been disqualified by a federal agency or pursuant to federal law, (F) the applicant's registration has been suspended or revoked by the Department of Consumer Protection pursuant to section 20-341gg, (G) the applicant has been disqualified by a municipality, and (H) the matters that gave rise to any such disqualification, suspension or revocation have been eliminated or remedied; and

(7) Other information as the commissioner deems relevant to the determination of the applicant's qualifications and responsibilities.

(d) The applicant shall include a statement of financial condition prepared by a certified public accountant which includes information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility.

Substitute Senate Bill No. 707

(e) Information contained in the application shall be current as of the time of filing except that the statement of financial condition shall pertain to the applicant's most recently-completed fiscal year.

(f) The commissioner shall determine whether to prequalify an applicant on the basis of the application and on relevant past performance according to procedures and criteria set forth in regulations which the commissioner shall adopt on or before October 1, 2005, in accordance with chapter 54. Such criteria shall include, at a minimum, the record of the applicant's performance, including, but not limited to, written evaluations of the applicant's performance on public or private projects within the past five years, the applicant's past experience on projects of various size and type, the skill, ability and integrity of the applicant and any subcontractors used by the applicant, the experience and qualifications of supervisory personnel employed by the applicant, the maximum amount of work the applicant is capable of undertaking as demonstrated by the applicant's financial condition, bonding capacity, size of past projects and present and anticipated work commitments, and any other relevant criteria that the commissioner prescribes. Such regulations shall also (1) provide that the criteria considered shall be assigned separate designated numerical values and weights and that the applicant shall be assigned an overall numerical rating on the basis of all criteria, and (2) establish prequalification classifications, aggregate work capacity ratings and single project limits. Such prequalification classifications shall be used to establish the types of work a contractor is qualified to perform and the aggregate work capacity ratings shall be used to establish the maximum amount of work a contractor is capable of undertaking.

(g) (1) The applicant shall indicate the prequalification classifications, aggregate work capacity ratings and single project limits that are sought. The commissioner may issue a certificate of

Substitute Senate Bill No. 707

prequalification to any applicant who meets the requirements of this section. Such certificate shall be effective for one year from the date issued and shall indicate the contractor's prequalification classifications, aggregate work capacity ratings and single project limits. The commissioner may cause the initial certificate of prequalification to be effective for a period not to exceed two years and may require the applicant to remit payment of the application fee, as set forth in subsection (b) of this section, for the first twelve months of certification as well as a prorated application fee, as described in subdivision (3) of this subsection, for any additional period of certification beyond the first twelve months.

(2) A prequalified contractor may apply at any time for additional prequalification classifications, aggregate work capacity ratings or single project limits by submitting the applicable increase in fee, a completed update statement [] and other information the commissioner requires.

(3) The commissioner may renew a prequalification certificate upon receipt of a completed update statement, any other material the commissioner requires and a nonrefundable fee in an amount equal to one-half of the application fee for the applicable aggregate work capacity rating as set forth in subsection (b) of this section, except that in no event shall such fee be less than six hundred dollars.

(h) Not later than sixty days after receiving a completed application, the commissioner shall mail or send by electronic mail a notice to the applicant concerning the commissioner's preliminary determination regarding the conditions of the prequalification certification, a denial of certification, a reduction in the level of certification sought or nonrenewal of certification. Any applicant aggrieved by the commissioner's preliminary determination may request copies of the information upon which the commissioner relied in making the preliminary determination, provided such request is made not later

Substitute Senate Bill No. 707

than ten days after the date the notice was mailed or sent by electronic mail to the applicant. Not later than twenty days after the date the notice was mailed or sent by electronic mail, the applicant may submit additional information to the commissioner with a request for reconsideration. The commissioner shall issue a final determination regarding the application not later than ninety days after the date the commissioner mailed or sent by electronic mail the notice of the preliminary determination, which ninety-day period may be extended for an additional period not to exceed ninety days if (1) the commissioner gives written notice to the applicant that the commissioner requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial ninety-day period.

(i) The commissioner may not issue or renew a prequalification certificate to any contractor (1) who is disqualified pursuant to section 31-57c or 31-57d, or (2) who has a principal or key personnel who, within the past five years, has a conviction or has entered a plea of guilty or nolo contendere for or has admitted to commission of an act or omission that reasonably could have resulted in disqualification pursuant to any provision of subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as determined by the commissioner.

(j) The commissioner may revoke a contractor's prequalification or reduce the contractor's prequalification classification or aggregate work capacity ratings, after an opportunity for a hearing, if the commissioner receives additional information that supports such revocation or reduction. During the hearing process, the commissioner may suspend a contractor's prequalification certificate if the commissioner determines that there is probable cause to believe that such contractor engaged in conduct that significantly undermines the skill, ability or integrity of such contractor. Any such suspension shall not exceed a period of three months and shall be accompanied by a

Substitute Senate Bill No. 707

written decision of the commissioner that sets forth the reasons for and duration of such suspension. The commissioner shall send notification of any such suspension to such contractor by certified mail, return receipt requested. Such contractor may file a response, in writing, not later than thirty days after receipt of such notice. The commissioner shall review any response submitted by a contractor within such thirty-day period.

(k) (1) Any substantial evidence of fraud in obtaining or maintaining prequalification or any materially false statement in the application, [or any] update statement or update bid statement may, in the discretion of the awarding authority, result in termination of any contract awarded the applicant by the awarding authority. The awarding authority shall provide written notice to the commissioner of such false statement not later than thirty days after discovering such false statement. The commissioner shall provide written notice of such false statement to the Commissioner of Public Works, [and] the Commissioner of Consumer Protection and the President of The University of Connecticut not later than thirty days after discovering such false statement or receiving such notice.

(2) The commissioner shall deny or revoke the prequalification of any person [, after an opportunity for hearing,] if the commissioner finds that the person has included any materially false statement in such application, [or] update statement or update bid statement, has been convicted of a crime related to the procurement or performance of any public or private construction contract or, within the past five years, [or] has otherwise engaged in fraud in obtaining or maintaining prequalification. Any revocation made pursuant to this subsection shall be made only after an opportunity for a hearing. Any person whose prequalification has been revoked pursuant to this subsection shall be disqualified for a period of two years after which the person may reapply for prequalification, except that a person whose

Substitute Senate Bill No. 707

prequalification has been revoked on the basis of conviction of a crime or engaging in fraud shall be disqualified for a period of five years after which the person may reapply for prequalification. The commissioner shall not prequalify a person whose prequalification has been revoked pursuant to this subdivision until the expiration of said two or five-year disqualification period and the commissioner is satisfied that the matters that gave rise to the revocation have been eliminated or remedied.

(l) The commissioner shall provide written notice of any revocation, disqualification, reduction in classification or capacity rating or reinstated prequalification to the Commissioner of Public Works, [and] the Commissioner of Consumer Protection and the President of The University of Connecticut not later than thirty days after any final determination.

(m) The provisions of this section and section 4a-101 shall not apply to subcontractors.

(n) The commissioner shall establish an update statement for use by bidders for purposes of renewing or upgrading a prequalification certificate and an update bid statement for purposes of submitting a bid pursuant to section 4b-91, as amended by this act.

(o) Any applicant aggrieved by the commissioner's final determination concerning a preliminary determination, a denial of certification, a reduction in prequalification classification or aggregate work capacity rating or a revocation or nonrenewal of certification may appeal to the Superior Court in accordance with section 4-183.

Sec. 4. Section 4a-100 of the general statutes, as amended by section 22 of public act 06-134, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) As used in this section: (1) "Prequalification" means

Substitute Senate Bill No. 707

prequalification issued by the Commissioner of Administrative Services to bid on a contract or perform work pursuant to a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work [for work] by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation, or to perform work under such a contract as a substantial subcontractor; (2) "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars; (3) "principals and key personnel" includes officers, directors, shareholders, members, partners and managerial employees; (4) "aggregate work capacity rating" means the maximum amount of work an applicant is capable of undertaking for any and all projects; (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking; [and] (6) "contract" means an agreement for work for the state or a municipality that is estimated to cost more than five hundred thousand dollars and is funded, in whole or in part, by state funds; and (7) "substantial subcontractor" means a person who performs work with a value in excess of five hundred thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars.

(b) (1) Any person may apply for prequalification to the Department of Administrative Services. Such application shall be made on such form as the Commissioner of Administrative Services prescribes and shall be accompanied by a nonrefundable application fee as set forth in subdivision (2) of this subsection. The application shall be signed under penalty of false statement.

(2) The application fee shall be as follows:

Substitute Senate Bill No. 707

Aggregate Work Capacity Rating	Fee
\$5,000,000.00 or less	\$600.00
\$5,000,000.01 - \$8,000,000.00	\$750.00
\$8,000,000.01 - \$10,000,000.00	\$850.00
\$10,000,000.01 - \$15,000,000.00	\$1,000.00
\$15,000,000.01 - \$20,000,000.00	\$1,500.00
\$20,000,000.01 - \$40,000,000.00	\$2,000.00
\$40,000,000.01 or more	\$2,500.00

(c) The application form shall, at a minimum, require the applicant to supply information concerning:

(1) The applicant's form of organization;

(2) The applicant's principals and key personnel and any names under which the applicant, principals or key personnel conducted business during the past five years;

(3) Any legal or administrative proceedings pending or concluded adversely against the applicant or any of the applicant's principals or key personnel within the past five years which relate to the procurement or performance of any public or private construction contract and whether the applicant is aware of any investigation pending against the applicant or any principal or key personnel;

(4) The nature of any financial, personal or familial relationship between the applicant and any public or private construction project owner listed on the application as constituting construction experience;

(5) A statement of whether (A) the applicant has been disqualified pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B) the applicant is on the list distributed by the Labor Commissioner pursuant to section 31-57a, (C) the applicant is disqualified or

Substitute Senate Bill No. 707

prohibited from being awarded a contract pursuant to section 31-57b, (D) the applicant has been disqualified by another state, (E) the applicant has been disqualified by a federal agency or pursuant to federal law, (F) the applicant's registration has been suspended or revoked by the Department of Consumer Protection pursuant to section 20-341gg, (G) the applicant has been disqualified by a municipality, and (H) the matters that gave rise to any such disqualification, suspension or revocation have been eliminated or remedied; and

(6) Other information as the commissioner deems relevant to the determination of the applicant's qualifications and responsibilities.

(d) The applicant shall include a statement of financial condition prepared by a certified public accountant which includes information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility.

(e) Information contained in the application shall be current as of the time of filing except that the statement of financial condition shall pertain to the applicant's most recently-completed fiscal year.

(f) The commissioner shall determine whether to prequalify an applicant on the basis of the application and on relevant past performance according to procedures and criteria set forth in regulations which the commissioner shall adopt on or before October 1, 2005, in accordance with chapter 54. Such criteria shall include, at a minimum, the record of the applicant's performance, including, but not limited to, written evaluations of the applicant's performance on public or private projects, [for a period of not less than the past three years,] the applicant's past experience on projects of various size and type, the skill, ability and integrity of the applicant and any

Substitute Senate Bill No. 707

subcontractors used by the applicant, the experience and qualifications of supervisory personnel employed by the applicant, the maximum amount of work the applicant is capable of undertaking as demonstrated by the applicant's financial condition, bonding capacity, size of past projects and present and anticipated work commitments, and any other relevant criteria that the commissioner prescribes. Such regulations shall also (1) provide that the criteria considered shall be assigned separate designated numerical values and weights and that the applicant shall be assigned an overall numerical rating on the basis of all criteria, and (2) establish prequalification classifications, aggregate work capacity ratings and single project limits. Such prequalification classifications shall be used to establish the types of work a contractor or substantial subcontractor is qualified to perform and the aggregate work capacity ratings shall be used to establish the maximum amount of work a contractor or substantial subcontractor is capable of undertaking.

(g) (1) The applicant shall indicate the prequalification classifications, aggregate work capacity ratings and single project limits that are sought. The commissioner may issue a certificate of prequalification to any applicant who meets the requirements of this section. Such certificate shall be effective for one year from the date issued and shall indicate the contractor's or substantial subcontractor's prequalification classifications, aggregate work capacity ratings and single project limits. The commissioner may cause the initial certificate of prequalification to be effective for a period not to exceed two years and may require the applicant to remit payment of the application fee, as set forth in subsection (b) of this section, for the first twelve months of certification as well as a prorated application fee, as described in subdivision (3) of this subsection, for any additional period of certification beyond the first twelve months.

(2) A prequalified contractor or substantial subcontractor may apply

Substitute Senate Bill No. 707

at any time for additional prequalification classifications, aggregate work capacity ratings or single project limits by submitting the applicable increase in fee, a completed update statement [.] and other information the commissioner requires.

(3) The commissioner may renew a prequalification certificate upon receipt of a completed update statement, any other material the commissioner requires and a nonrefundable fee in an amount not less than one-half of the application fee for the applicable aggregate work capacity rating as set forth in subsection (b) of this section.

(h) Not later than sixty days after receiving a completed application, the commissioner shall mail or send by electronic mail a notice to the applicant concerning the commissioner's preliminary determination regarding the conditions of the prequalification certification, a denial of certification, a reduction in the level of certification sought or nonrenewal of certification. Any applicant aggrieved by the commissioner's preliminary determination may request copies of the information upon which the commissioner relied in making the preliminary determination, provided such request is made not later than ten days after the date the notice was mailed or sent by electronic mail to the applicant. Not later than twenty days after the date the notice was mailed or sent by electronic mail, the applicant may submit additional information to the commissioner with a request for reconsideration. The commissioner shall issue a final determination regarding the application not later than ninety days after the date the commissioner mailed or sent by electronic mail the notice of the preliminary determination, which ninety-day period may be extended for an additional period not to exceed ninety days if (1) the commissioner gives written notice to the applicant that the commissioner requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial ninety-day period.

(i) The commissioner may not issue or renew a prequalification

Substitute Senate Bill No. 707

certificate to any contractor or substantial subcontractor (1) who is disqualified pursuant to section 31-57c or 31-57d, or (2) who has a principal or key personnel who, within the past five years, has a conviction or has entered a plea of guilty or nolo contendere for or has admitted to commission of an act or omission that reasonably could have resulted in disqualification pursuant to any provision of subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as determined by the commissioner.

(j) The commissioner may revoke a contractor's or substantial subcontractor's prequalification or reduce the contractor's or substantial subcontractor's prequalification classification or aggregate work capacity ratings, after an opportunity for a hearing, if the commissioner receives additional information that supports such revocation or reduction. During the course of such hearing process, the commissioner may suspend a contractor's prequalification certificate if the commissioner determines that there is probable cause to believe that such contractor engaged in conduct that significantly undermines the skill, ability or integrity of such contractor. Any such suspension shall not exceed a period of three months and shall be accompanied by a written decision of the commissioner that sets forth the reasons for and duration of such suspension. The commissioner shall send notification of any such suspension to such contractor by certified mail, return receipt requested. Such contractor may file a response, in writing, not later than thirty days after receipt of such notice. The commissioner shall review any such response submitted by a contractor within such thirty-day period.

(k) (1) Any substantial evidence of fraud in obtaining or maintaining prequalification or any materially false statement in the application [or any] update statement or update bid statement may, in the discretion of the awarding authority, result in termination of any

Substitute Senate Bill No. 707

contract awarded the applicant by the awarding authority. The awarding authority shall provide written notice to the commissioner of such false statement not later than thirty days after discovering such false statement. The commissioner shall provide written notice of such false statement to the Commissioner of Public Works, [and] the Commissioner of Consumer Protection and the President of The University of Connecticut not later than thirty days after discovering such false statement or receiving such notice.

(2) The commissioner shall deny or revoke the prequalification of any person [, after an opportunity for hearing,] if the commissioner finds that the person has included any materially false statement in such application, [or] update statement or update bid statement, has been convicted of a crime related to the procurement or performance of any public or private construction contract or, within the past five years, [or] has otherwise engaged in fraud in obtaining or maintaining prequalification. Any revocation made pursuant to this subsection shall be made only after an opportunity for a hearing. Any person whose prequalification has been revoked pursuant to this subsection shall be disqualified for a period of two years after which the person may reapply for prequalification, except that a person whose prequalification has been revoked on the basis of conviction of a crime or engaging in fraud shall be disqualified for a period of five years after which the person may reapply for prequalification. The commissioner shall not prequalify a person whose prequalification has been revoked pursuant to this subdivision until the expiration of said two-year, five-year, or other applicable disqualification period and the commissioner is satisfied that the matters that gave rise to the revocation have been eliminated or remedied.

(l) The commissioner shall provide written notice of any revocation, disqualification, reduction in classification or capacity rating or reinstated prequalification to the Commissioner of Public Works, [and]

Substitute Senate Bill No. 707

the Commissioner of Consumer Protection and the President of The University of Connecticut not later than thirty days after any final determination.

(m) The provisions of this section and section 4a-101 shall not apply to subcontractors who are not substantial subcontractors.

(n) The commissioner shall establish an update statement for use by bidders and substantial subcontractors for purposes of renewing or upgrading a prequalification certificate and an update bid statement for purposes of submitting a bid pursuant to section 4b-91, as amended by this act.

(o) Any applicant aggrieved by the commissioner's final determination concerning a preliminary determination, a denial of certification, a reduction in prequalification classification or aggregate work capacity rating or a revocation or nonrenewal of certification may appeal to the Superior Court in accordance with section 4-183.

[(p) The commissioner shall adopt regulations, in accordance with chapter 54, to establish a schedule of application fees for substantial contractors.]

Sec. 5. Subsection (c) of section 4a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) As used in this section, "public agency" means a public agency, as defined in section 1-200, "contract" means an agreement for work for the state or a municipality that is estimated to cost more than five hundred thousand dollars and is funded, in whole or in part, by state funds and "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract, [for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars.]

Substitute Senate Bill No. 707

Sec. 6. Subsection (c) of section 4a-101 of the general statutes, as amended by section 23 of public act 06-134, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(c) As used in this section, "public agency" means a public agency, as defined in section 1-200, "contract" means an agreement for work for the state or a municipality that is estimated to cost more than five hundred thousand dollars and is funded, in whole or in part, by state funds, "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract [for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars] and "substantial subcontractor" means a substantial subcontractor, as defined in section 4a-100, as amended by this act.

Sec. 7. Section 4b-91 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building [for] or any other public work by the state except a public highway or bridge project or any other construction project administered by the Department of Transportation, which is estimated to cost more than five hundred thousand dollars, except a contract awarded by the Commissioner of Public Works for (1) a community court project, as defined in subsection (j) of section 4b-55, (2) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (3) a correctional facility project, as defined in subsection (m) of section 4b-55, (4) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (5) a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 4a-100, as amended by

Substitute Senate Bill No. 707

this act, on the basis of competitive bids in accordance with the procedures set forth in this chapter, after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by advertisements inserted at least once in one or more newspapers having a circulation in each county in the state. The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall indicate the prequalification classification required for the contract in such advertisement. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 4a-100, as amended by this act.

(b) The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be made within sixty days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Public Works, the joint committee or a constituent unit with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate

Substitute Senate Bill No. 707

with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) [On and after October 1, 2004, no] No person may bid on a contract or perform work pursuant to a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality, which is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless the person is prequalified in accordance with section 4a-100, as amended by this act.

(d) [On and after October 1, 2004, each] Each bid submitted for a contract described in subsection (c) of this section shall include a copy of a prequalification certificate issued by the Commissioner of Administrative Services. The bid shall also be accompanied by an update bid statement in such form as the Commissioner of

Substitute Senate Bill No. 707

Administrative Services prescribes. The form for such update bid statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection (c) of section 4a-100, as amended by this act, and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate and an update bid statement shall be invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate and an update bid statement, as required by this section, may become ineligible for the receipt of funds related to such bid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update bid statement, and that the bid was made without fraud or collusion with any person.

(f) Any person who receives information from a state employee or public official that is not available to the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building prior to the date that an advertisement for bids on the project is published shall be disqualified

Substitute Senate Bill No. 707

from bidding on the project.

(g) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 4a-100, as amended by this act, and submit the three selected contractors to the construction services award panels process described in section 4b-100a and any regulation adopted by the commissioner. The commissioner may negotiate with the successful bidder a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. The Commissioner of Public Works, prior to entering any such contract or performing any work on such project, shall submit such contract to the State Properties Review Board for review and approval or disapproval by the board, pursuant to subsection (i) of this section. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h) [On and after October 1, 2004, any] Any agency that seeks to have a project awarded without being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to government administration and elections that the project is of such an emergency nature that an exception to the competitive bidding procedures of this section is required. Such certification shall include input from all affected

Substitute Senate Bill No. 707

agencies, detail the need for the exception and include any relevant documentation.

(i) In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Public Works submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

Sec. 8. Section 4b-92 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this chapter and except as otherwise provided, the words "lowest responsible and qualified bidder" shall mean the bidder who is prequalified pursuant to section 4a-100, as amended by this act, and whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary to faithful performance of the work based on objective criteria considering past performance and information contained in the update bid statement submitted pursuant to section 4b-91, as amended by this act. Essential information in regard to such qualifications shall be submitted with the bid in such form as the awarding authority may require by specification in the bid documents and on the bid form. Every general bid shall be accompanied by a bid bond or a certified check in an amount which shall be ten per cent of the bid, provided no such bid bond or certified check shall be required in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which such general bid is submitted is less than fifty thousand dollars. Failure to execute a contract awarded as specified and bid shall result in the forfeiture of such bid bond or certified check. In considering past performance the

Substitute Senate Bill No. 707

awarding authority shall evaluate the skill, ability and integrity of bidders in terms of the bidders' fulfillment of contract obligations and of the bidders' experience or lack of experience with projects of the nature and scope of the project for which the bids are submitted.

Sec. 9. Subdivision (2) of subsection (g) of section 9-612 of the general statutes, as amended by section 1 of public act 07-1, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) On and after December 31, 2006:

(A) No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

(B) No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract solicitation with or from the General Assembly or a holder, or principal of a holder, of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of state senator or state representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

Substitute Senate Bill No. 707

(C) If a state contractor or principal of a state contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this subdivision, as determined by the State Elections Enforcement Commission, the contracting state agency or quasi-public agency may, in the case of a state contract executed on or after the effective date of this section void the existing contract with said contractor, and no state agency or quasi-public agency shall award the state contractor a state contract or an extension or an amendment to a state contract for one year after the election for which such contribution is made or solicited unless the commission determines that mitigating circumstances exist concerning such violation. No violation of the prohibitions contained in subparagraph (A) or (B) of this subdivision shall be deemed to have occurred if, and only if, the improper contribution is returned to the principal by the later of thirty days after receipt of such contribution by the recipient committee treasurer or the filing date that corresponds with the reporting period in which such contribution was made; and

(D) If a prospective state contractor or principal of a prospective state contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this subdivision, as determined by the State Elections Enforcement Commission, no state agency or quasi-public agency shall award the prospective state contractor the contract described in the state contract solicitation or any other state contract for one year after the election for which such contribution is made or solicited unless the commission determines that mitigating circumstances exist concerning such violation. The Commissioner of Administrative Services shall notify applicants of the provisions of this subparagraph and subparagraphs (A) and (B) of this subdivision during the prequalification application process.

(E) The State Elections Enforcement Commission shall make available to each state agency and quasi-public agency a written notice advising state contractors and prospective state contractors of the

Substitute Senate Bill No. 707

contribution and solicitation prohibitions contained in subparagraphs (A) and (B) of this subdivision. Such notice shall: (i) Direct each state contractor and prospective state contractor to inform each individual described in subparagraph (F) of subdivision (1) of this subsection, with regard to said state contractor or prospective state contractor, about the provisions of subparagraph (A) or (B) of this subdivision, whichever is applicable, and this subparagraph; (ii) inform each state contractor and prospective state contractor of the civil and criminal penalties that could be imposed for violations of such prohibitions if any such contribution is made or solicited; (iii) inform each state contractor and prospective state contractor that, in the case of a state contractor, if any such contribution is made or solicited, the contract may be voided; (iv) inform each state contractor and prospective state contractor that, in the case of a prospective state contractor, if any such contribution is made or solicited, the contract described in the state contract solicitation shall not be awarded, unless the commission determines that mitigating circumstances exist concerning such violation; and (v) inform each state contractor and prospective state contractor that the state will not award any other state contract to anyone found in violation of such prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the commission determines that mitigating circumstances exist concerning such violation. Each state agency and quasi-public agency shall distribute such notice to the chief executive officer of its contractors and prospective state contractors, or an authorized signatory to a state contract, and shall obtain a written acknowledgement of the receipt of such notice.

Sec. 10. Section 49-41 of the general statutes is amended by adding subsection (f) as follows (*Effective from passage*):

(NEW) (f) Whenever a surety bond is required in connection with a contract for the construction, reconstruction, alteration, remodeling,

Substitute Senate Bill No. 707

repair or demolition of any public building for work by the state or a municipality, that is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, the surety contract between the contractor named as principal in the bond and the surety that issues such bond shall contain the following provision: "In the event that the surety assumes the contract or obtains a bid or bids for completion of the contract, the surety shall ensure that the contractor chosen to complete the contract is prequalified pursuant to section 4a-100 of the Connecticut general statutes in the requisite classification and has the aggregate work capacity rating and single project limit necessary to complete the contract".

Sec. 11. Subdivision (1) of subsection (b) of section 1-206 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed [within] not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed [within] not later than thirty days after the person filing the appeal receives notice in fact that such meeting was held. For purposes of this subsection, such notice of appeal shall be deemed to be filed on the date it is received by said commission or on the date it is postmarked, if received more than thirty days after the date of the denial from which such appeal is taken. Upon receipt of such notice, the commission shall serve upon all parties, by certified or registered mail, a copy of such notice together with any other notice or order of such commission. In the case of the denial of a request to inspect or copy records contained in a public

Substitute Senate Bill No. 707

employee's personnel or medical file or similar file under subsection (c) of section 1-214, the commission shall include with its notice or order an order requiring the public agency to notify any employee whose records are the subject of an appeal, and the employee's collective bargaining representative, if any, of the commission's proceedings and, if any such employee or collective bargaining representative has filed an objection under said subsection (c), the agency shall provide the required notice to such employee and collective bargaining representative by certified mail, return receipt requested or by hand delivery with a signed receipt. A public employee whose personnel or medical file or similar file is the subject of an appeal under this subsection may intervene as a party in the proceedings on the matter before the commission. Said commission shall, after due notice to the parties, hear and decide the appeal within one year after the filing of the notice of appeal. The commission shall adopt regulations in accordance with chapter 54, establishing criteria for those appeals which shall be privileged in their assignment for hearing. Any such appeal shall be heard [within] not later than thirty days after receipt of a notice of appeal and decided [within] not later than sixty days after the hearing. If a notice of appeal concerns an announced agency decision to meet in executive session or an ongoing agency practice of meeting in executive sessions, for a stated purpose, the commission or a member or members of the commission designated by its chairperson shall serve notice upon the parties in accordance with this section and hold a preliminary hearing on the appeal [within] not later than seventy-two hours after receipt of the notice, provided such notice shall be given to the parties at least forty-eight hours prior to such hearing. During such preliminary hearing, the commission shall take evidence and receive testimony from the parties. If after the preliminary hearing the commission finds probable cause to believe that the agency decision or practice is in violation of sections 1-200 and 1-225, the agency shall not meet in executive session for such purpose until the commission decides the appeal. If probable

Substitute Senate Bill No. 707

cause is found by the commission, it shall conduct a final hearing on the appeal and render its decision [within] not later than five days [of] after the completion of the preliminary hearing. Such decision shall specify the commission's findings of fact and conclusions of law.

Sec. 12. Section 1-210 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located or of the Secretary of the State, as the case may be. Any certified record hereunder attested as a true copy by the clerk, chief or deputy of such agency or by such other person designated or empowered by law to so act, shall be competent evidence in any court of this state of the facts contained therein. Each such agency shall make, keep and maintain a record of the proceedings of its meetings.

(b) Nothing in the Freedom of Information Act shall be construed to require disclosure of:

(1) Preliminary drafts or notes provided the public agency has

Substitute Senate Bill No. 707

determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure;

(2) Personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy;

(3) Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known, (B) signed statements of witnesses, (C) information to be used in a prospective law enforcement action if prejudicial to such action, (D) investigatory techniques not otherwise known to the general public, (E) arrest records of a juvenile, which shall also include any investigatory files, concerning the arrest of such juvenile, compiled for law enforcement purposes, (F) the name and address of the victim of a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or impairing of morals under section 53-21, or of an attempt thereof, or (G) uncorroborated allegations subject to destruction pursuant to section 1-216;

(4) Records pertaining to strategy and negotiations with respect to pending claims or pending litigation to which the public agency is a party until such litigation or claim has been finally adjudicated or otherwise settled;

(5) (A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, or customer lists that (i) derive

Substitute Senate Bill No. 707

independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy; and

(B) Commercial or financial information given in confidence, not required by statute;

(6) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examinations;

(7) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned, provided the law of eminent domain shall not be affected by this provision;

(8) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish the applicant's personal qualification for the license, certificate or permit applied for;

(9) Records, reports and statements of strategy or negotiations with respect to collective bargaining;

(10) Records, tax returns, reports and statements exempted by federal law or state statutes or communications privileged by the attorney-client relationship;

(11) Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is

Substitute Senate Bill No. 707

to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age, provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance, as the case may be, of the town wherein the student resides for the purpose of verifying tuition payments made to such school;

(12) Any information obtained by the use of illegal means;

(13) Records of an investigation or the name of an employee providing information under the provisions of section 4-61dd;

(14) Adoption records and information provided for in sections 45a-746, 45a-750 and 45a-751;

(15) Any page of a primary petition, nominating petition, referendum petition or petition for a town meeting submitted under any provision of the general statutes or of any special act, municipal charter or ordinance, until the required processing and certification of such page has been completed by the official or officials charged with such duty after which time disclosure of such page shall be required;

(16) Records of complaints, including information compiled in the investigation thereof, brought to a municipal health authority pursuant to chapter 368e or a district department of health pursuant to chapter 368f, until such time as the investigation is concluded or thirty days from the date of receipt of the complaint, whichever occurs first;

(17) Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g;

(18) Records, the disclosure of which the Commissioner of Correction, or as it applies to Whiting Forensic Division facilities of the

Substitute Senate Bill No. 707

Connecticut Valley Hospital, the Commissioner of Mental Health and Addiction Services, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction or Whiting Forensic Division facilities. Such records shall include, but are not limited to:

(A) Security manuals, including emergency plans contained or referred to in such security manuals;

(B) Engineering and architectural drawings of correctional institutions or facilities or Whiting Forensic Division facilities;

(C) Operational specifications of security systems utilized by the Department of Correction at any correctional institution or facility or Whiting Forensic Division facilities, except that a general description of any such security system and the cost and quality of such system may be disclosed;

(D) Training manuals prepared for correctional institutions and facilities or Whiting Forensic Division facilities that describe, in any manner, security procedures, emergency plans or security equipment;

(E) Internal security audits of correctional institutions and facilities or Whiting Forensic Division facilities;

(F) Minutes or recordings of staff meetings of the Department of Correction or Whiting Forensic Division facilities, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;

(G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities; and

Substitute Senate Bill No. 707

(H) Records that contain information on contacts between inmates, as defined in section 18-84, and law enforcement officers;

(19) Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A) (i) by the Commissioner of Public Works, after consultation with the chief executive officer of an executive branch state agency, with respect to records concerning such agency; and (ii) by the Commissioner of Emergency Management and Homeland Security, after consultation with the chief executive officer of a municipal, district or regional agency, with respect to records concerning [any executive branch agency of the state or any municipal, district or regional agency, by the Commissioner of Public Works, after consultation with the chief executive officer of the] such agency; (B) by the Chief Court Administrator with respect to records concerning the Judicial Department; [facilities, by the Chief Court Administrator;] and (C) by the executive director of the Joint Committee on Legislative Management, with respect to records concerning the Legislative Department. [, by the executive director of the Joint Committee on Legislative Management.] As used in this section, "government-owned or leased institution or facility" includes, but is not limited to, an institution or facility owned or leased by a public service company, as defined in section 16-1, a certified telecommunications provider, as defined in section 16-1, a water company, as defined in section 25-32a, or a municipal utility that furnishes electric, gas or water service, but does not include an institution or facility owned or leased by the federal government, and "chief executive officer" includes, but is not limited to, an agency head, department head, executive director or

Substitute Senate Bill No. 707

chief executive officer. Such records include, but are not limited to:

- (i) Security manuals or reports;
- (ii) Engineering and architectural drawings of government-owned or leased institutions or facilities;
- (iii) Operational specifications of security systems utilized at any government-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system, may be disclosed;
- (iv) Training manuals prepared for government-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;
- (v) Internal security audits of government-owned or leased institutions or facilities;
- (vi) Minutes or records of meetings, or portions of such minutes or records, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;
- (vii) Logs or other documents that contain information on the movement or assignment of security personnel; [at government-owned or leased institutions or facilities;]
- (viii) Emergency plans and emergency [recovery or response plans] preparedness, response, recovery and mitigation plans, including plans provided by a person to a state agency or a local emergency management agency or official; and
- (ix) With respect to a water company, as defined in section 25-32a, that provides water service: Vulnerability assessments and risk management plans, operational plans, portions of water supply plans submitted pursuant to section 25-32d that contain or reveal

Substitute Senate Bill No. 707

information the disclosure of which may result in a security risk to a water company, inspection reports, technical specifications and other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems or sources of supply;

(20) Records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system;

(21) The residential, work or school address of any participant in the address confidentiality program established pursuant to sections 54-240 to 54-240o, inclusive;

(22) The electronic mail address of any person that is obtained by the Department of Transportation in connection with the implementation or administration of any plan to inform individuals about significant highway or railway incidents.

(c) Whenever a public agency receives a request from any person confined in a correctional institution or facility or a Whiting Forensic Division facility, for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services in the case of a person confined in a Whiting Forensic Division facility of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution or facility or Whiting Forensic Division facility.

Substitute Senate Bill No. 707

(d) Whenever a public agency, except the Judicial Department or Legislative Department, receives a request from any person for disclosure of any records described in subdivision (19) of subsection (b) of this section under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Public Works or the Commissioner of Emergency Management and Homeland Security, as applicable, of such request, in the manner prescribed by [the] such commissioner, before complying with the request as required by the Freedom of Information Act and for information related to a water company, as defined in section 25-32a, the public agency shall promptly notify the water company before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency or after consultation with the chief executive officer of the applicable water company for information related to a water company, as defined in section 25-32a, believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from such person. In any appeal brought under the provisions of section 1-206 of the Freedom of Information Act for denial of access to records for any of the reasons described in subdivision (19) of subsection (b) of this section, such appeal shall be against the [Commissioner of Public Works] chief executive officer of the executive branch state agency or the municipal, district or regional agency that issued the directive to withhold such record pursuant to subdivision (19) of subsection (b) of this section, exclusively, or, in the case of records concerning Judicial Department facilities, the Chief Court Administrator or, in the case of records concerning the Legislative Department, the executive director of the Joint Committee on Legislative Management.

(e) Notwithstanding the provisions of subdivisions (1) and (16) of subsection (b) of this section, disclosure shall be required of:

Substitute Senate Bill No. 707

(1) Interagency or intra-agency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated, except disclosure shall not be required of a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency;

(2) All records of investigation conducted with respect to any tenement house, lodging house or boarding house as defined in section 19a-355, or any nursing home, residential care home or rest home, as defined in section 19a-490, by any municipal building department or housing code inspection department, any local or district health department, or any other department charged with the enforcement of ordinances or laws regulating the erection, construction, alteration, maintenance, sanitation, ventilation or occupancy of such buildings; and

(3) The names of firms obtaining bid documents from any state agency.

Sec. 13. Section 1-205 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be a Freedom of Information Commission consisting of five members appointed by the Governor, with the advice and consent of either house of the General Assembly, who shall serve for terms of four years from the July first of the year of their appointment, except that of the members appointed prior to and serving on July 1, 1977, one shall serve for a period of six years from July 1, 1975, one shall serve for a period of four years from July 1, 1975, and one shall serve for a period of six years from July 1, 1977. Of the two new members first appointed after July 1, 1977, one shall serve from the date of such appointment until June 30, 1980, and one shall serve from

Substitute Senate Bill No. 707

the date of such appointment until June 30, 1982. No more than three members shall be members of the same political party.

(b) Each member shall receive two hundred dollars per day for each day such member is present at a commission hearing or meeting, and shall be entitled to reimbursement for actual and necessary expenses incurred in connection therewith, in accordance with the provisions of section 4-1.

(c) The Governor shall select one of its members as a chairman. The commission shall maintain a permanent office at Hartford in such suitable space as the Commissioner of Public Works provides. All papers required to be filed with the commission shall be delivered to such office.

(d) The commission shall, subject to the provisions of the Freedom of Information Act promptly review the alleged violation of said Freedom of Information Act and issue an order pertaining to the same. Said commission shall have the power to investigate all alleged violations of said Freedom of Information Act and may for the purpose of investigating any violation hold a hearing, administer oaths, examine witnesses, receive oral and documentary evidence, have the power to subpoena witnesses under procedural rules adopted by the commission to compel attendance and to require the production for examination of any books and papers which the commission deems relevant in any matter under investigation or in question. In case of a refusal to comply with any such subpoena or to testify with respect to any matter upon which that person may be lawfully interrogated, the superior court for the judicial district of Hartford, on application of the commission, may issue an order requiring such person to comply with such subpoena and to testify; failure to obey any such order of the court may be punished by the court as a contempt thereof.

(e) The Freedom of Information Commission, and the Department

Substitute Senate Bill No. 707

of Information Technology with respect to access to and disclosure of computer-stored public records, shall conduct training sessions, at least annually, for members of public agencies for the purpose of educating such members as to the requirements of sections 1-7 to 1-14, inclusive, 1-16 to 1-18, inclusive, 1-200 to 1-202, inclusive, 1-205, 1-206, 1-210 to 1-217, inclusive, 1-225 to 1-232, inclusive, 1-240, 1-241 and 19a-342.

(f) Not later than December 31, 2001, the Freedom of Information Commission shall create, publish and provide to the chief elected official of each municipality a model ordinance concerning the establishment by any municipality of a municipal freedom of information advisory board to facilitate the informed and efficient exchange of information between the commission and such municipality. The commission may amend the model ordinance from time to time.

(g) When the General Assembly is in session, the Governor shall have the authority to fill any vacancy on the commission, with the advice and consent of either house of the General Assembly. When the General Assembly is not in session any vacancy shall be filled pursuant to the provisions of section 4-19. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission and three members of the commission shall constitute a quorum.

(h) The commission shall, subject to the provisions of chapter 67, employ such employees as may be necessary to carry out the provisions of this chapter. The commission may enter into such contractual agreements as may be necessary for the discharge of its duties, within the limits of its appropriated funds and in accordance with established procedures.

[(i) The commission shall make available to the public the printed

Substitute Senate Bill No. 707

reports of its decisions, opinions and related materials at a reasonable cost not to exceed the actual cost thereof to said commission but not less than twenty-eight dollars per item.]

[(j)] (i) The Freedom of Information Commission shall not be construed to be a commission or board within the meaning of section 4-9a.

Approved July 10, 2007